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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/769,933

02/02/2004

Craig S. Serio

29641/39824

9566

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06/14/2006

MARSHALL, GERSTEIN & BORUN LLP  
233 S. WACKER DRIVE, SUITE 6300  
SEARS TOWER  
CHICAGO, IL 60606

EXAMINER

NGUYEN, TUAN N

ART UNIT

PAPER NUMBER

3751

DATE MAILED: 06/14/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/769,933

Applicant(s)

SERIO ET AL.

Examiner

Tuan N. Nguyen

Art Unit

3751

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 23 March 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-28 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-28 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Response to Arguments***

1. Applicant's arguments filed 3/23/06 have been fully considered but they are not persuasive.

With respect to the applicant's argument against claim 1, the examiner disagrees with the applicant's assertion that the "tongue and groove-type joint... does not permit removal of the fitment from the container" because the "tongue and groove-type joint" is never a permanent welded or glued joint between two components. The applicant fails to present fact to support for such interpretation. Finally, the Gentile reference does not have to show any structure to permit removal because the limitation of such structure is not presented in the claim.

With respect to the applicant's argument against claims 3 and 16, the elements about 62, 64 of cap 56, when joint to the device, will act as a "living hinge" as claimed, which connects the cover to the cap. The claim does not present any other structure or function that would overcome the broadest reasonable interpretation of the "living hinge."

With respect to the applicant's argument against claims 9 and 10, the applicant's argument is narrower than the claims. There is no mention of any cover fitted over a roller or any structure defining a paint pad. Therefore, the application element of Gentile can be considered as "a paint pad" or "a paint roller cover" given the broadest reasonable interpretation from one of ordinary skill in the art as the time the invention was made.

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With respect to the applicant's argument against claims 11, 14 and 22, the examiner's disagrees with the applicant's interpretation of what a valve should and should not include. The examiner considered multiple elements 12, 66, 36 and 38 made up the valve since element 38 slide on element 66 of element 12 to provide a valve connection with element 36. The claim fails to claim any specific structure to distinguish from the broadest reasonable interpretation of the valve of Gentile.

The applicant's arguments against claims 25-28 have been addressed above.

The previous office action is maintained as indicated below.

### ***Specification***

2. The abstract of the disclosure is objected to because it should avoid using phrases, which can be implied, such as, "The disclosure generally relates to" on line 1 of the abstract. Correction is required.. See MPEP § 608.01(b).

3. The disclosure is objected to because of the following informalities: "roller 16 cover" on line 17 of page 4 should be --roller cover 16-- (see line 17 of page 3).

Appropriate correction is required.

### ***Claim Objections***

4. Claims 1-28 are objected to because of the following informalities: "a contents" on line 6 of claim 1 and line 5 of claims 14 and 25 is grammatically incorrect; and "the rim" on line 1 of claims 4 and 17 lack antecedent in the claim. Appropriate correction is required.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1-28 are rejected under 35 U.S.C. 102(b) as being anticipated by Gentile et al. (hereinafter Gentile).

In regard to claims 1, 9, 10, 14 and 23, Gentile discloses a paint applicator comprising a container (1) having an opening; and a housing assembly (see Fig. 2a) removably attached to the container, the housing assembly comprising a paint application element (14), which can be considered as “a paint pad” or “a paint roller cover”, and a push-pull valve (see cols. 3-4), the paint application element being adjacent to the valve (see Fig. 2a), and the push-pull valve being in fluid communication with a content of the container.

In regard to claims 2 and 15, the housing assembly comprises a cap (about 2) adapted to substantially seal the opening of the container, and a cover (56) adapted to engage the cap.

In regard to claims 3 and 16, the paint applicator further comprises a “living hinge” (about 62, 64) connecting the cover to the cap. 4.

In regard to claims 4 and 17, a rim comprises a bead and the cap includes an annular channel for receiving the rim, the annular channel including a plurality of ribs adapted to interact with the bead to substantially seal the cap to the container (see Fig.

2a where member 2 engages the bead of the container, the ribs are above and below the bead).

In regard to claims 5 and 18, the cap includes a recess (the recess under member 8, see Figs. 2a and 5) and the cover includes a projection (64, see Figs. 2a and 2b) adapted to interact with the recess to provide a snap-fit engagement between the cap and the cover.

In regard to claims 6 and 19, the cover includes a recess (between 62 and 64, see Figs. 2a and 2b) and the cap includes a projection (about member 8, see Figs. 2a and 5) adapted to interact with the recess to provide a snap-fit engagement between the cap and the cover.

In regard to claims 7 and 20, the cap is adapted to engage the paint application element (about 20, see Fig. 2b).

In regard to claims 8 and 21, the cover is adapted to engage the paint application element (via cap 2 when the cover 56 is place thereon).

In regard to claims 11 and 12, the push- pull valve comprises a face (about 12) having a contour that is complementary to an outer diameter of the paint roller cover and the face is in contact with an outer diameter of the paint roller cover (see Fig. 2b).

In regard to claims 13 and 24, an aperture (about 18, see Fig. 2a) of the push-pull valve would be positioned above a centerline of the paint application element in use in an upside down position.

In regard to claims 25-28, the method as claimed would be inherent during normal use of the Gentile device.

***Conclusion***

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tuan N. Nguyen whose telephone number is 571-272-4892. The examiner can normally be reached on Monday-Friday (10:00-6:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Justine R. Yu can be reached on (571) 272-4835. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Tuan Nguyen  
Primary Examiner  
Art Unit 3751  
6/12/06

TN